

OBERMAYER, REBMANN, MAXWELL & HIPPEL

GEORGE B. CLOTHIER
H. CLAYTON LOUDERBACK
SIDNEY HARRIS
WALTER R. MILBOURNE
H. THOMAS FELIX, II
HOWARD H. LEWIS
PAUL C. HEINTZ
L. DAVID WILLISON, III
BARTON A. HERTZBACH
HUGH C. SUTHERLAND
HUGH J. HUTCHISON
KENNETH J. LEVIN
JAMES A. YOUNG
ROBERT F. ROSSITER
BRIAN E. APPEL
JAMES W. CHRISTIE
JAMES M. PENNY, JR.
GORDON L. KEEN, JR.
THOMAS E. ROSS
JOHN J. EHLINGER, JR.
JEFFREY B. ROTWITT
JOSEPH R. DAVISON
D. TIMOTHY TAMMANY
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FRANK E. HAHN, JR.
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A. GRANT SPRECHER
MARTIN WEINBERG
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PETER M. BREITLING
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ROBERT A. MACDONNELL
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GEORGE W. HALEY
STEWART M. QUERRELL
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THOMAS R. HENDERSHOT
WALTER E. NELSON, JR.
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JAMES A. SOX
JOHN J. LEONARD
ELINORE O'N. KOLODNER
DAVID R. KELLER
M. KELLY TILL
DANIEL J. ZUCKER

SUITE 500

2011 STREET, N. W.

WASHINGTON, D. C. 20006

(202) 452-8833

TELECOPIER 202-223

COUNSEL

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ASSOCIATED COUNSEL

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* ADMITTED IN DISTRICT OF COLUMBIA ONLY

Secretary
Interstate Commerce Commission
12th & Constitution Aves., N.W.
Washington, D.C. 20423
ATTN: Ms. Mildred Lee

Date AUG 4 1980

Fee \$ 60.00 + 10

ICC Washington, D. C.

RECORDATION NO. Filed & Recorded

AUG 4 1980 - 1 55 PM

INTERSTATE COMMERCE COMMISSION

Re: Recordation of Documents

Dear Ms. Lee:

Pursuant to §11303 of the Interstate Commerce Act and the Commission's rules and regulations thereunder, as amended, I am enclosing for filing and recording two fully executed copies of a lease entitled "Boxcar Agreement", dated July 22, 1980, between Interail System, and John J. Francis, Trustee of the Morristown and Erie Railroad Company, an Assignment dated July 22, 1980, of the Boxcar Agreement, between Interail and the Great Western Railway Company and an Assignment of lease rentals, dated July 22, 1980, between The Grant Western Railway Company and The Interail System. The parties and their addresses are as follows:

Interail

Mr. Stephen L. Bernstein
Senior V.P. & Counsel
Interail
1530 Palisade Ave.
Ft. Lee, N.J. 07024

Great Western Ry.

Emil Ramat
Great Western Railway
950 Monroe Ave.
Loveland, CO 80537

Morristown and Erie Railroad Company

John J. Francis
Trustee of the property of the
Morristown and Erie Railroad Co.
Lackawanna Place
Morristown, N.J. 07960

RECORDED

AUG 4 1 50 PM '80

F. C. OBERMAYER, JR.

OBERMAYER, REBMANN, MAXWELL & HIPPEL

Ms. Mildred Lee

August 4, 1980

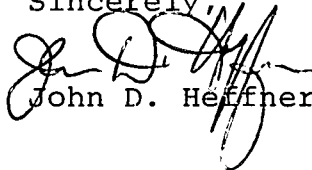
Page 2

The equipment covered by the enclosed documents consists of forty-four (44) 50'6", 70 ton "XM" type boxcars bearing "ME" markings of the Morristown & Erie Railroad and following numbers:

11135	11314	11444	11185	11402
11201	11325	11456	11207	11434
11219	11335	11467	11223	11559
11235	11348	10021	11233	10002
11236	11361	10047	11275	
11263	11367	11102	11305	
11276	11368	11114	11316	
11278	11385	11132	11327	
11285	11390	11170	11340	
11299	11392	11176	11398	

I have enclosed a check representing the recordation fee required by the regulations. Upon recordation, please return a copy to me.

Sincerely,


John D. Heffner

JDH:ds
encl.

Boxcar Agreement (Lease Agreement)

lessee - ~~the~~ Morristown and Erie Railroad

lessor - Interail System

Assignment ^{above} (of 1 lease X one page agreement)

Assignor - Interail System

Assignee - Great Western Railway Co

Assignment (of Lease Rentals)

Assignor - Great Western Railway Co

Assignee - Interail System

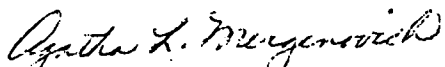
Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Dear

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on at , and assigned re-
recording number(s):

Sincerely yours,


Agatha L. Mergenovich
Secretary

Enclosure(s)

Interstate Commerce Commission
Washington, D.C. 20423

8/4/80

OFFICE OF THE SECRETARY

John D. Hoffner
Obermayer, Rebmann, Maxwell & Hippel
Suite 500, 2011 I Street, N.W.
Washington, D.C. 20006

Dear

Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **8/4/80** at **1:55pm**, and assigned recordation number(s). **12067, 12067-A, 12067-B**

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

LAW OFFICES

OBERMAYER, REBMANN, MAXWELL & HIPPEL

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H. CLAYTON LOUDERBACK
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WASHINGTON, D. C. 20006

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August 25, 1980

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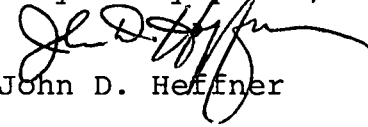
Ms. Mildred Lee
Interstate Commerce Commission
12th & Constitution Aves, N.W.
Room: 2303
Washington, D.C. 20423

Re: Interail Recordation No. 12067-C

Dear Ms. Lee:

In accordance with our telephone conversation last week, enclosed is a check for \$10.00 payable to the Interstate Commerce Commission representing the fee for late filed supplementary material. Please call Mr. Chapman or myself if you have any more questions.

Very truly yours,


John D. Heffner

JDH:ds
encl.
cc: Stephen L. Bernstein

AUG 4 1980 -1 55 PM BOXCAR AGREEMENT

INTERSTATE COMMERCE COMMISSION

THIS AGREEMENT, made as of this 22nd day of July

1980 between THE INTERAIL SYSTEM, a joint venture composed of Mid-Rail, Inc., a New Jersey corporation with offices at 1530 Palisade Avenue, Fort Lee, New Jersey 07024 ("Interail") and 22 Commerce Road, Inc., a New Jersey corporation with offices at 19 Gardner Road, Fairfield, New Jersey; and John J. Francis, Trustee for the property of the Morristown and Erie Railroad Company, with offices located at Lackawanna Place, Morristown, New Jersey ("Railroad").

1. Interail agrees to deliver to the Railroad and the Railroad agrees to accept from Interail a minimum of forty-four (44) boxcars of the types and description as set forth in the schedule executed by the parties concurrently herewith, and made a part of this Agreement. The scheduled items and equipment are hereafter called collectively the "Boxcars". The word "Schedule" as used herein shall include the schedule executed concurrently herewith and all additional schedules and amendments thereto, whether for Boxcars or other railroad equipment, each of which when signed by both parties shall be deemed a part of this Agreement.

2. Boxcars shall be moved to the Railroad's rail line at no cost to Railroad as soon after such Boxcars are acquired by Interail as is consistent with mutual convenience and

economy. It is understood and agreed that Railroad will begin to receive crediters, as provided for in paragraph 19 hereof, upon delivery of Boxcars covered by this Agreement into the United States railway interchange system with markings thereon as provided for in paragraph 3 thereof.

3. Before delivery of any Boxcars to Railroad, said Boxcars will be lettered by Interail with the railroad markings of Railroad and may also be marked with the name and/or other insignia used by Interail at no cost to Railroad. Such name and/or insignia shall comply with all applicable regulations. In the event of termination of this Agreement pursuant to paragraph 11 thereof, said markings shall be removed forthwith from the Boxcars by Interail at no cost to Railroad.

4. Railroad shall during the term of the agreement, through an accounting clerk provided by Interail, prepare, maintain and file all documents relating to the registration, maintenance and record keeping involving the Boxcars. Such documents shall include, but are not limited to, the following:

(a) Appropriate AAR documents including an application for relief from AAR Car Service Rules 1 and 2 if requested by Interail or its assigns;

(b) Registration in the Official Railway Equipment Register ("ORER") and the Universal Machine Language Equipment Register ("UMLER");

(c) Such reports as may be required from time to time by the ICC and/or other regulatory agencies.

(d) Interail shall furnish the data necessary to register the Boxcar in the UMLER System of the Association of American Railroads, showing Railroad as the home lines, at no cost to Railroad.

5. Each Boxcar covered by this Agreement shall be registered by Railroad through the accounting clerk provided by Interail in the ORER and the UMLER, on behalf of Interail, and Railroad shall perform all record keeping functions related to the use of the Boxcars by Railroad and other railroads in accordance with AAR railroad interchange agreements and rules, such as car hire reconciliation. Correspondence from railroads using such Boxcars shall be sent to Railroad and Railroad shall promptly send copies of all such communications to Interail. To assist Railroad in the Boxcar accounting function, Interail will provide, at its sole cost and expense, an accounting clerk who will be employed by Interail to work at the Railroad's premises with the Railroad's employees in performing all of the aforesaid car accounting functions.

6. All record keeping performed by Railroad hereunder and all record of payments, charges and correspondence relating to the Boxcars shall be recorded and maintained by Railroad in the form suitable for reasonable inspection by Interail from time to time during regular Railroad business hours. Railroad

shall supply Interail with such reports, including daily telephone reports of the number of Boxcars on Railroad's tracks regarding the use of the Boxcars by Railroad in its Railroad line as Interail may reasonably request.

7. As and when each Boxcar is delivered by Interail to Railroad, such Boxcar shall be deemed "home based" on the Railroad line. As used herein, the term "home based" shall mean that affiliation with Railroad as is sufficient to enable such Boxcar to enjoy the same status and benefits as are available to boxcars owned by Railroad or any other properly chartered railroad as determined by all applicable governmental regulations and the AAR Car Service and Car Hire Agreement Code of Car Service Rules. No per diem or any other charges, except as otherwise set forth herein, will be due to Interail while the Boxcars are on the premises of Railroad.

8. Railroad will at all times during the term of this Agreement, be responsible for the Boxcars while on Railroad's tracks in the same manner as Railroad is responsible under Rule 7 of the AAR Car Service and Car Hire Agreement Code of Car Services Rules-Freight, for freight cars not owned by Railroad on Railroad's railroad tracks. Railroad shall protect against consequences of an event of loss involving the Boxcars while on Railroad's tracks by obtaining suitable insurance. Railroad shall also maintain bodily injury and property damage liability insurance. Railroad shall furnish Interail concurrently with

the execution of this Agreement and thereafter at intervals of not more than twelve (12) calendar months with certificates of insurance with respect to the insurance required, as aforesaid, signed by an independent insurance broker or the insurance company. All insurance shall be issued in the name of Railroad and Interail (or its assignee) as their interest may appear. However, Interail will be responsible for and make payment directly to Railroad for any additional or increased insurance premium incurred by Railroad as a result of having the Boxcars on the Railroad's premises. Railroad will provide Interail with proper documentation reflecting any increased or additional insurance premium.

9. Railroad shall inspect all Boxcars interchanged to it to insure that such Boxcars are in good working order and condition and shall be liable to Interail for any repairs required for damage not noted at the time of interchange. Interail shall transfer and assign to Railroad, for and during the term of this Agreement, all of its right, title and interest in and to any warranties in respect of the Boxcars in order to facilitate Railroad's maintenance of such Boxcars. Any recovery under such warranty shall be applied first to reimburse Railroad for its cost of repair and any excess funds not so required shall be promptly turned over to Interail.

10. Except as otherwise provided herein, Interail, at its own expense, shall make or cause to be made such inspections

of, and maintenance and repairs to, the Boxcars as may be required. Interail shall maintain at its sole cost and expense a repair shop for the maintenance and repair of the Boxcars. Interail shall also make, at the expense of Interail, all alterations, modifications or replacements of parts as shall be necessary to maintain the Boxcars in good operating condition throughout the term of this Agreement.

Title to any such alteration, improvement or addition shall be and remain with Interail.

11. This Agreement shall remain in full force and effect until it shall have been terminated as to all of the Boxcars covered by this Agreement. The term of this Agreement with respect to all of the Boxcars covered thereby shall be for a period of five (5) years commencing at the date when such Boxcars shall have been delivered from Interail to Railroad, SUBJECT, HOWEVER, to the provision that it is recognized by the parties hereto that the Railroad is currently subject to the jurisdiction of the United States District Court for the District of New Jersey pursuant to Chapter VIII of the Bankruptcy Act, and therefore, the term of this Agreement is subject to the approval of said District Court and may therefore be terminated or modified upon proper application to the court by either party under such terms as are approved by that Court. The term "delivery" as used herein is understood to be the

time at which Boxcars covered by this Agreement are interchanged into the United States Railway System. In the event that this Agreement shall not have been earlier terminated and no default has occurred and is continuing, this Agreement shall automatically be extended for not more than five (5) consecutive periods of two (2) years each with respect to all of the Boxcars covered by this Agreement, provided, however, that during the term of this Agreement, either Railroad or Interail may terminate this Agreement as to all, but not fewer than all the Boxcars, on any such schedule, by written notice delivered to the other party not less than twelve (12) months prior to the end of the initial lease term or any renewal period. It shall be the intent of the parties that Interail shall at all times be and remain the owner of the Boxcars. Railroad will at no time take any action or file any documents which are inconsistent with the foregoing intent and it will take such action and execute such documents as may be necessary to accomplish the same.

12. During the term of this Agreement, Railroad shall enter into no similar agreement with any other suppliers of railroad equipment of any kind, nature or description including, but not limited to, Boxcars.

13. Railroad will grant the Boxcars first priority for loading and shipment off line so as to place the Boxcars in a

revenue status at the earliest possible date. Railroad and Interail will use their best efforts to cause the assignment of idle Boxcars to other railroads if no outloadings are available on Railroad's line. When any such Boxcar is idle and Railroad is not using the same, there will be no charge to Railroad and Railroad may utilize the cars for service within its line. In any such case, Railroad will pay normal per diem and mileage to Interail for such Boxcars during periods of such use.

14. Railroad will sign whatever documents are required to have all applicable revenue related to the Boxcars including, but not limited to, regular per diem, incentive per diem, mileage, loss claims, claims for damage done by other railroads, payable to Interail, and deposited in the account of Interail at such place as may from time to time be designated. In the event that Railroad shall receive funds applicable to the Boxcars, Railroad shall, within ten (10) days, pay such amounts to Interail together with all weekly AAR sheets and reports related thereto. Railroad shall provide Interail with copies of all interchange reports, weekly AAR sheets and any other documents related to the Boxcars within five (5) days after the receipt thereof. Interail shall reserve the right at all times to inspect any and all Railroad's files relating to the Boxcars.

15. Title to the Boxcars which are subject to this Agreement will at all times remain the property of Interail and nothing contained in this Agreement shall be deemed to or construed to convey to Railroad any proprietary interest either as owner or lessee in such Boxcars.

16. Interail may store, without charge, idle Boxcars on the lines of Railroad so long as such storage does not interfere with the normal operations of the business of Railroad in accordance with the provisions of Addendum A.

17. In the event damage beyond repair or destruction of a Boxcar has been reported in accordance with Rule 7 of the AAR Car Service and Car Hire Agreement Code of Car Hire Rules-Freight, and the appropriate amount due as a result thereof is received by Interail, said damaged or destroyed Boxcar shall be removed from the coverage of this Agreement as of the date that payment of car hire payments cease.

18. If at any time during a calendar quarter, the number of days that the Boxcars have not earned car hire payments is such as to make it mathematically certain that the utilization of any such calendar quarter cannot be equal to or greater than 87.5%, Interail may, at its option and upon not less than ten (10) days prior written notice to Railroad, terminate this Agreement as to such Boxcars as Interail shall determine. Furthermore, Interail and/or Railroad may enter

into off-line arrangements for the placement of the Boxcars on the tracks of other railroads in the event the utilization falls below the percentage set forth herein. Moreover, Interail may, at its option, terminate this Agreement if the ICC shall at any time:

(a) Issue an order reducing incentive car hire payments for Boxcars on an annual basis to three (3) months or less without a corresponding increase in straight car hire payments or other monies available to both Interail and Railroad at least in an amount of such reduction;

(b) Determine that Railroad may not apply its incentive car hire receipts in payment of the rental charges referred to herein; or

(c) Require that Railroad spend funds not earned by the Boxcars in order for Railroad to continue to meet its obligations set forth herein.

19. Railroad shall be entitled to receive a fee equal to the sum of the revenues from time charges and mileage allowance as is earned by the Boxcars to the extent and only to the extent of 10% of all time charges and mileage credits received on the Boxcars as a result of interchange with other railroads. At the end of each month, such calculations will be made and within ten (10) days after all required reports are available and received, Interail shall pay such amounts to

Railroad promptly after such calculations have been made. Any and all revenues received which result from loss claims and/or damage claims shall not be calculated or included in the computation of Railroad's fees as hereinabove set forth.

20. So long as Railroad shall not be in default under this Agreement, Railroad shall be entitled to the possession of the Boxcars in accordance with the terms of this Agreement and in the manner and to the extent Boxcars are customarily used in the railroad freight business, provided that Railroad retain on out railroad tracks no more cars than are necessary to fulfill its minimum requirements to provide transportation and facilities upon reasonable request therefor to shippers on its railroad tracks.

21. Railroad's rights with respect to the Boxcars shall in all respects be subject and subordinate to the rights of any secured party in any financing agreement entered into by Interail in connection with the acquisition of the Boxcars.

22. Railroad shall return the Boxcars to Interail at the Railroad's interchange with the Consolidated Rail Corporation at the termination of this Agreement and Interail shall promptly remove such Boxcars from Railroad's line at that time.

23. Interail will defend, indemnify and hold harmless Railroad from and against:

(a) Any and all loss or damage of or to the Boxcars, usual wear and tear excepting, unless occurring while Railroad has physical possession of the Boxcars; and

(b) Any claim, cause of actions, damage or liability cost or expenses which may be asserted against Railroad with respect to the Boxcars, other than loss or physical damage (unless occurring through fault of Railroad), including without limitation the construction, purchase and delivery of the Boxcars to Railroad's line, ownership, leasing or return of the Boxcars, or as a result of the use, maintenance, repair, replacement, operation or condition thereof (whether defects, if any, are latent or discoverable by Railroad or Interail).

24. Interail shall maintain a general liability policy for any and all personal injury and property damage claims arising from the use and/or presence of Boxcars on the railroad tracks of third parties off of the Railroad's line. Interail shall furnish Railroad concurrently with the execution of this Agreement, and thereafter at intervals of not more than twelve (12) calendar months, with certificates of insurance with respect to the insurance required, as aforesaid, signed by an independent insurance broker or the insurance company. All insurance shall be issued in the name of Railroad and Interail (or its assignee) as their respective interest may appear.

25. Warranties and Covenants:

Railroad represents, warrants and covenants that:

(a) The entering into and performance of this Agreement will not violate any judgment, order, law or regulation applicable to Railroad, or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of Railroad or on the Boxcars pursuant to any instrument to which Railroad is a party or by which it or its assets may be bound.

(b) There is no action proceeding pending or threatened against Railroad before any court or administrative Conrail suit agency or other governmental body which might result in any material adverse effect on the business, properties and assets, or conditions, financial or otherwise, of Railroad other than those currently pending in the United States District Court before the Hon. Lawrence A. Whipple, which litigation is known to all parties hereto.

(c) There is no fact which Railroad has not disclosed to Interail in writing, nor is Railroad a party to any agreement or instrument or subject to any charter or other corporate restriction which, so far as Railroad can now reasonably foresee, will individually or in the aggregate materially adversely affect the business, condition or any material

portion of the properties of Railroad or the ability of Railroad to perform its obligations under this Agreement.

(e) Railroad has during the years 1964-1968 neither leased nor purchased any Boxcars.

Provided however, it is understood by Interail that the Railroad ("The Morristown and Erie Railroad Company") is presently under the jurisdiction of the United States District Court of New Jersey pursuant to Chapter VIII of the Bankruptcy Act, and further, that the terms of this Agreement and any modification or extension thereof, is subject to the approval of said Court, upon proper notice to all parties in interest.

26. Miscellaneous:

(a) This Agreement and the Schedules contemplated hereby shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, except that Railroad may not without the prior written consent of Interail assign this Agreement or any of its rights hereunder to any party, and any purported assignment in violation hereof shall be void.

(b) Both parties agree to execute the documents contemplated by this transaction and such other documents as may be required in furtherance of this Agreement.

(c) No failure or delay by Interail shall constitute a waiver or otherwise affect or impair any right, power or remedy available to Interail nor shall any waiver or indulgence by Interail or any partial or single exercise of any right,

power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

(d) This Agreement shall be governed by and construed according to the laws of the State of New Jersey.

(e) All notices hereunder shall be in writing and shall be deemed given when delivered personally or when deposited in the United States Mail, postage prepaid, certified or registered, addressed to the other party at the address set forth above.

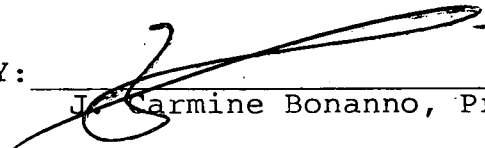
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the year and date first above written.

THE INTERAIL SYSTEM, A JOINT
VENTURE

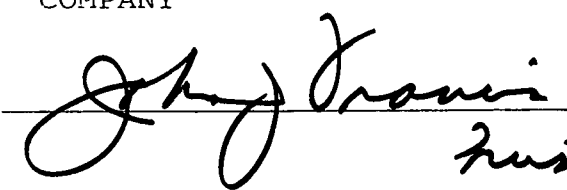
By: MID-PAIL, INC.

BY: 
Emil Ramat, President

BY: 22 COMMERCE ROAD, INC.

BY: 
J. Carmine Bonanno, President

BY: MORRISTOWN AND ERIE RAILROAD
COMPANY

BY: 
John J. Francis, President

DATED: July 22, 1980


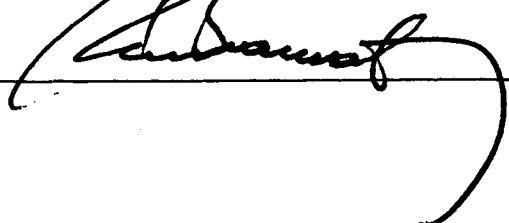
ADDENDUM A

It is expressly understood by and between the parties to the Box Car Agreement attached hereto, that during the term of the Box Car Agreement no more than 12 of the said box cars shall be on the debtor's right of way at any given time. It is recognized, however, that under certain circumstances more than 12 box cars may be on the debtor's line, due to the exigencies of rail service, and therefore, when this event occurs, Interail will have a reasonable period of time within which to remove the excess box cars so as to reduce their number to the maximum of 12.

MORRISTOWN & ERIE RAILROAD

By: 
John J. Francis

THE INTERAIL SYSTEM

By: 
By: 

ADDENDUM B

It is recognized and understood by and between the parties to the Box Car Agreement attached hereto, that the Agreement provides for the assignment thereof by The Interail System. It is further understood by and between the parties that title to the box cars which are the subject of this Agreement rests in the Great Western Railway Company. Accordingly, parties hereto agree to the assignment of the attached Box Car Agreement by the Interail System to the Great Western Railway Company, with the expressed condition that the Great Western Railway Company is subject to all of the same terms and conditions imposed upon The Interail System under the terms of the Agreement.

MORRISTOWN & ERIE RAILROAD

By: _____

John J. Francis - Trustee.

THE INTERAIL SYSTEM

By: _____

By: _____

THE GREAT WESTERN RAILWAY COMPANY

By: _____